

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

**Hon. Hugh B. Scott**

v.

01-MJ-2137

**Decision &  
Order**

Phargo, LLC d/b/a/ Buffalo Weaving  
and Belting Company,

Defendant.

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Before the Court is motion by the United States for remission of the fine balance imposed in this matter. (Docket No. 12)

On December 21, 2001, a Judgment was entered convicting the defendant of making false certifications to the government in violation of 18 U.S.C. § 1018. (Docket No. 9). In addition to a term of probation, the defendant a fine of \$16,000 was assessed. To date, the defendant has made payments totaling \$4050.00 toward the fine, leaving a balance of \$11,950.00. In its moving papers, the government represents that foreclosure proceedings were commenced against the defendant on January 9, 2003; that the defendant ceased business operations on January 15, 2003 (when Niagara Mohawk turned off the company's power); that a fire destroyed the company's building on August 15, 2003; that the defendant has filed for relief in a Chapter 7 Bankruptcy proceeding which was discharged on July 31, 2006; and that the defendant now has no assets. (Docket No. 12 at ¶¶ 4-5).

The instant motion is based upon 18 U.S.C. §3573, which provides that:

Upon petition by the government that reasonable efforts to collect a fine or assessment are not likely to be effective, the Court may, in the interest of justice— (1) remit all or part of the unpaid portion of the fine or special assessment, including interest and penalties...

Public Law 100-690 (November 18, 1988) amends 18 U.S.C. §3573 by providing that this statute shall apply to all fines and assessments, irrespective of the date of imposition.

The government has demonstrated that further attempts to collect the fine against the defendant would not be effective. The motion for the remission of the fine balance (\$11,950.00) is granted.

So Ordered.

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Buffalo, New York  
May 16, 2008

/s/ Hugh B. Scott  
United States Magistrate Judge  
Western District of New York